



# MINUTES

## Judicial District and Judicial Resources Study Committee

November 3, 2005

### MEMBERS PRESENT:

Senator Keith Kreiman, Co-chairperson  
Senator Pat Ward, Co-chairperson  
Representative Don Shultz  
Megan Antenucci  
Jackie Armstrong  
Curt Campbell  
Barbara Edmondson  
Shirley Faircloth  
Judge Duane Hoffmeyer  
Gayle Kelm  
Jeff Lipman  
Joanne Lorence  
Rick L. Lynch  
John McClintock  
Leesa McNeil  
Carolee Philpott  
Don Redfern

Judge David Remley  
Judge James Richardson  
Marty Ryan  
Judge Annette Scieszinski  
Justice Marsha Ternus  
William D. Werger

### MEMBERS ABSENT:

Representative O. Gene Maddox,  
Co-chairperson  
Dennis Anderson  
Mike Bollard  
Tom Drew  
Fred James  
Julie Johnson  
Randy Osborn

## MEETING IN BRIEF

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- I. Procedural Business.
- II. Introductory Comments by Study Committee Co-chairpersons and Members.
- III. Presentation — Judicial Branch.
- IV. Recommendations.
- V. Materials Filed With the Legislative Services Agency.



## Judicial District and Judicial Resources Study Committee

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### **I. Procedural Business.**

**Call to Order.** Temporary Co-chairperson Kreiman called the meeting of the Judicial District and Judicial Resources Study Committee to order at 10:07 a.m. on Thursday, November 3, 2005, in Room 22 of the State Capitol.

**Rules.** Temporary Co-chairperson Kreiman stated that the Committee would continue to proceed under the procedural rules adopted by the Committee in 2003.

**Election of Permanent Co-chairpersons.** Upon motion of Mr. McClintock, the members of the Committee elected Temporary Co-chairperson Kreiman, Temporary Co-chairperson Ward, and Temporary Co-chairperson Maddox as permanent Co-chairpersons with a voice vote.

**Recess and Adjournment.** The Committee recessed at 11:13 a.m. and reconvened at 11:30 a.m. The Committee recessed at 12:15 p.m. and reconvened at 1:18 p.m. The meeting adjourned at 3:22 p.m. The Committee has no further meetings scheduled.

**Minutes - Final Report Revisions.** A draft set of minutes and a draft final report were sent to Study Committee members on January 30, 2006. Three members suggested technical revisions to the documents involving the final report membership listing, description of the Judicial Council, references to district associate judges, references to the Supreme Court Commission on Planning for the 21st Century, a terminology change from "judge" to "judicial officer" in the narrative regarding judicial officers, and a terminology change from "apportion" and "apportionment" to "reallocate" and "reallocation" in recommendation language regarding allocation of district associate judgeships. The suggested changes were distributed to members on February 3, 2006, accepted without objection, and incorporated into these minutes and the final report.

### **II. Introductory Comments by Study Committee Co-chairpersons and Members.**

The members of the Committee introduced themselves and shared their thoughts about allocation of judicial resources in the state and other issues facing the judicial branch such as accessibility to courts in rural areas, judgeship formulas, use of technology, pro se litigants, adequate compensation of personnel, expansion of drug courts, and courthouse security.

### **III. Presentation — Judicial Branch.**

#### **A. Mr. David Boyd — State Court Administrator.**

Mr. David Boyd reviewed the Committee's work during the two previous years and discussed the work of the Supreme Court's Commission on Planning for the 21st Century, which was begun in the mid-1990s. He said that the commission recommended that the State Court Administrator perform an evaluation of the effectiveness of the judicial district system every 10 years and that the statutory formula for distribution of court officers should be based on a weighted workload study instead of solely on population and the number of filings in each judicial district.

Mr. Boyd stated that in 2000 the Supreme Court asked the National Center for State Courts (NCSC) to conduct a weighted workload study of the Iowa district courts. He said that in 2002, NCSC issued a report which found a disparity between the supply of judicial officers around the



state and the workload such that areas were oversupplied or undersupplied by as much as 50 percent in some cases.

Mr. Boyd stated that in response to the planning commission's report, the Supreme Court established the Judicial Redistricting Commission in 2002, comprised of broad constituencies, to consider creation of a redistricting plan to reduce the number of judicial districts. He noted that the Redistricting Commission adopted a redistricting plan; however, the plan was never submitted to the General Assembly by the Supreme Court. He stated that in 2003 the General Assembly passed legislation requiring the Supreme Court to complete a redistricting plan in 2012 after the next federal census is completed, for consideration by the General Assembly.

Mr. Boyd stated that a by-product of the Redistricting Commission's work was the enactment of legislation to allow reallocation of district judges based on attrition and to allow voluntary transfers by district judges to address problems of workload disparity, upon approval by a majority of the Judicial Council, which is made up of the eight chief judges of the judicial districts, and the Chief Judge of the Court of Appeals and the Chief Justice of the Supreme Court. Mr. Boyd indicated that two vacant positions have been reallocated to other districts but the voluntary transfer procedure has not yet been used because of concerns about the constitutionality of relocating a district judge without using the required selection procedures.

### **B. Mr. John Goerdt — Judicial Branch Planner.**

Mr. John Goerdt presented a review of the NCSC's weighted workload formula and distributed a handout entitled "Table 1 — 2005 Update of the NCSC's Weighted Workload Formula for Assessing Judgeship Needs in Iowa." Mr. Goerdt discussed the types of judicial officers in Iowa and the types of cases that each officer has the jurisdiction to handle. He stated that under the statutory formula the judicial branch needs 145 district judges, but is frozen at 116 positions. He stated that a district is allowed to trade three allocated magistrate positions in order to obtain one district associate judge, who has jurisdiction to handle a wider range of cases.

Mr. Goerdt said that the number of district associate judges (DAJs) is determined by the population of each county, with a maximum number of seven positions per county. He opined that population ranges for the allocation of DAJs need to be more rational and should be changed.

Mr. Goerdt said that magistrate positions are reallocated every four years but the statutory scheme is vague and does not include any specific numeric formula. He stated that every county is assigned at least one magistrate position. He stated that the Supreme Court used a weighted case formula to make magistrate allocations in 2005 which resulted in the reallocation of 15 magistrate positions.

Mr. Goerdt stated that the 2002 study, which resulted in the weighted workload formula, analyzed judges' workloads by having individual judges fill out time sheets which categorized cases worked on by specified case types, and included the number of minutes spent on each case, to arrive at a case weight. Mr. Goerdt stated that his handout provides updated weighted workload data over a three-year period from 2002-2004. He explained that the formula also makes adjustments for judicial time spent on activities not related to specific cases, such as travel, vacation, meetings,



## Judicial District and Judicial Resources Study Committee

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and administrative matters. He stated that the same methodology proposed in 2002 is being used today in Iowa and nationally to assess judicial workloads.

Mr. Goerdt opined that the weighted caseload formula created by the NCSC is the best way that has been found to assess judgeship needs. He stated that the formula is more precise than measurements that only count population or number of cases, is more flexible and adaptable in assessing the need for each type of judicial officer, and rewards efficient case processing. He noted that it is necessary to look at the quality of justice dispensed and that speed of processing is not necessarily dispositive of quality.

Mr. Goerdt explained that it is difficult to compare Iowa's data to that of other states which may have different procedures such as mandatory mediation. In response to questions, Mr. Goerdt indicated that he would add information to the table contained in his handout to show available resources presently allocated to each judicial district compared to the demand for judicial resources for each judicial district indicated on line 20 of the table.

### **IV. Recommendations.**

#### **A. Judicial Officer Allocation Formulas.**

Mr. Boyd stated that while the Supreme Court does not have any specific recommendations concerning the judicial officer allocation formulas, the Court does believe that the current formulas are too rigid, and if changed, should be made more flexible.

Mr. Goerdt stated that specific issues such as the pro se litigation caseload can be addressed through a focus group or steering committee that considers tweaking the case weights for those particular types of cases without redoing the whole workload formula. He noted that the pro se issue affects the whole state fairly equally in contrast to the issue of drug courts.

Mr. Goerdt said that drug courts are very labor intensive and involve so few people at a time that it does not make sense to change all felony case weights to accommodate drug court cases. He stated that the drug court situation might be addressed by adding additional FTEs or portions of FTEs in districts with a drug court, similar to adjustments made where the state penitentiary is located due to the volume of prisoner-related litigation, and to Polk County, because it is the seat of state government, and consequently hosts a larger volume of litigation involving administrative appeals.

Justice Ternus indicated that the Supreme Court prefers a flexible statutory formula or something akin to the statute authorizing the Court's child support guidelines, which simply imposes a duty on the Court to adopt a formula based on some general, but specified, considerations. The statute would allow the Court to change the formula as needed to meet current reality, but still give the General Assembly oversight of judgeships through its ultimate authority to fund judicial positions.

**Recommendation:** The Committee approved on a voice vote a recommendation that the Supreme Court draft a new flexible judicial officer allocation formula pursuant to guidelines to be approved by the General Assembly.

#### **B. Judicial Branch Funding.**



Members of the Committee discussed the need for full and adequate funding of the whole judicial system, including basic resources to dispense justice and additional funding to address specific needs for technology and interpreters. Mr. Boyd indicated that full and adequate funding includes not just judicial officers but clerks of court and support staff. Members of the Committee discussed the fact that a request for full and adequate funding by the Supreme Court involves setting priorities and making reasonable requests to the General Assembly. Members of the Committee agreed that while courthouse security is an important issue, security is locally funded and should not be included in the Committee's recommendation.

**Recommendation:** The Committee approved on a voice vote a recommendation that the General Assembly provide full and adequate funding of the judicial branch.

### **C. Court Orders Required to Obtain Services in Juvenile Court.**

Members of the Committee opined that the redesign of the Department of Human Services requires a court hearing in order to get basic treatment and assessment services for children. Members observed that this situation burdens the court system with additional filings and delays the provision of services to juveniles.

**Recommendation:** The Committee approved on a voice vote a recommendation that the Supreme Court and the Department of Human Services work together to determine better ways to implement the department's redesign so that judicial resources are not detrimentally affected and services to children are not delayed or reduced and report the results of their collaboration to the Committee.

### **D. Magistrates – Judicial Officer Allocation and Qualification.**

Members of the Committee discussed whether to recommend passage of a provision requiring a person to be admitted to the practice of law in this state as a condition of being appointed as a magistrate. This recommendation would also allow a nonlawyer presently serving as a magistrate to continue to serve in that position.

The Committee also discussed whether to recommend passage of another provision permitting an applicant for a magistrate position to be a resident of another county so long as the applicant is a resident of the county of appointment or is a resident of a county contiguous to the county of appointment within 30 days of appointment. The Committee also discussed whether to include a preference for magistrate applicants who reside in the county of appointment but decided not to include that provision in its recommendation.

The Committee discussed whether to allow the Chief Justice to reallocate district associate judge positions in the event of a substantial disparity in the allocation of district associate judges among judicial election districts. The Committee also discussed whether to allow the voluntary permanent transfer of a district associate judge to another judicial election district in the event of substantial disparity in allocations.

**Recommendation:** The Committee approved on a voice vote a recommendation that legislation be adopted providing that a person must be admitted to the practice of law in this state to be



## Judicial District and Judicial Resources Study Committee

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appointed as a magistrate but allowing nonlawyers presently serving as magistrates to continue to serve in those positions. Representative Shoultz voted no on this recommendation.

**Recommendation:** The Committee approved on a voice vote a recommendation that legislation be adopted providing that an applicant for a magistrate position may be a resident of another county so long as the applicant is a resident of the county of appointment or is a resident of a county contiguous to the county of appointment within 30 days of appointment.

**Recommendation:** The Committee approved on a voice vote a recommendation that legislation be adopted providing that if the Chief Justice makes a finding that a substantial disparity exists in the allocation of district associate judges between judicial election districts, the Chief Justice may reallocate a vacant district associate judgeship to another judicial election district if a majority of the Judicial Council approves the reallocation. Co-chairperson Kreiman and Mr. Ryan voted no on this recommendation.

**Recommendation:** The Committee approved on a voice vote a recommendation that legislation be adopted providing that the Chief Justice may authorize a voluntary permanent transfer of a district associate judge to another judicial election district if a substantial disparity exists in the allocation of district associate judges between judicial election districts, if a majority of the Judicial Council approves such a transfer. Co-chairperson Kreiman and Mr. Ryan voted no on this recommendation.

### **E. Improvement of Accessibility to Courts through Electronic Hearings and Other Technology.**

Members of the Committee stated that one of the main uses of deputy sheriffs' time is the transport of persons to mental health hearings. It was suggested that hearings and arraignments could be held electronically, freeing deputies for other duties such as courthouse security. Members opined that technology can be used to increase accessibility to the courts and should not be viewed as a way to close courthouses. Judge Hoffmeyer indicated that he is a member of the Judicial Technology Committee and that other groups are already studying technology issues.

**Recommendation:** The Committee approved on a voice vote a recommendation that the General Assembly provide adequate funding for the development of technology to allow better access to the courts and better utilization of public resources.

### **F. Courthouse Security.**

Judge Scieszinski commented that a task force would be meeting the following day to make recommendations concerning courthouse security. Members of the Committee stated that courthouse security is an accessibility issue because if the courthouse is not safe, litigants and witnesses will be afraid to come there. It was noted that courthouse security is an issue for everyone in the courthouse, including the people who work there. A suggestion was made that courthouses should have safety standards that are enforceable in a similar manner as current safety standards for jails.

**Recommendation:** The Committee approved on a voice vote a recommendation that it is urgent that the General Assembly, courts, and local governments provide funds to implement modern





courthouse security standards throughout the state. Mr. Ryan stated courthouse security is a local issue and voted no on this recommendation.

### **G. Regional Jails and Drug Courts.**

The Committee discussed whether to recommend that the General Assembly encourage implementation of regional jails in the state. Members expressed concern that regional jails make it difficult for prisoners to participate in work-release programs, limit accessibility to counsel, and result in increased transportation and other costs. It was decided not to make a recommendation concerning regional jails at this time.

The Committee also discussed expansion of the Drug Court Program into more judicial districts. Judge Richardson noted that data concerning drug courts indicates that the state saves \$20,000 to \$25,000 per year for each person who participates in drug court. It was emphasized that drug court expansion must include funding for necessary treatment expenses. Representative Shultz stated that a drug court in his district has been operating with the help of a federal grant.

**Recommendation:** The Committee approved on a voice vote a recommendation encouraging the General Assembly to proceed with implementing drug courts on a statewide basis.

### **H. District Associate Judge Allocation and Jurisdiction.**

The Committee considered whether the subject matter jurisdiction of district associate judges should be expanded to allow them to consider more types of cases such as domestic matters, many of which involve pro se litigants. Members stated that many district associate judges are already overwhelmed by the volume of work in their courts.

It was also suggested that since some rural areas only have two magistrates, the formula should be changed to allow such a county to trade two magistrate positions, instead of three, to obtain a district associate judge position. Co-chairperson Kreiman noted that matters that concern changing the judicial allocation formula involve funding issues, and no action was taken at this time to expand the jurisdiction of district associate judges.

### **I. Committee's Future Goals.**

Members agreed that the Committee should meet again in 2006 to discuss the status of the Committee's recommendations from this year. Mr. Redfern, former state Senator and former Co-chairperson of the Committee, stated that the importance of Committee members taking the Committee's recommendation to their memberships should not be underestimated and that their memberships should be encouraged to contact their legislators regarding the recommendations.

**Recommendation:** The Committee approved on a voice vote a recommendation that the Legislative Council authorize the Judicial District and Judicial Resources Study Committee to meet again during the 2006 Legislative Interim.

### **V. Materials Filed With the Legislative Services Agency.**

The listed materials were distributed at or in connection with the meeting, are filed with the Legislative Services Agency, and may be accessed from the "Additional Information" link from the Committee's Internet page:



## Judicial District and Judicial Resources Study Committee

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<http://www.legis.state.ia.us/aspx/Committees/Committee.aspx?id=58>.

1. Table 1 — 2005 Update of the NCSC's Weighted Workload Formula for Assessing Judgeship Needs in Iowa
2. S.S.B. 3100
3. S.F. 380
4. Committee presentation by Judicial Branch

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